

● **FILED**
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SEP 7 1998

CLERK OF COURT
UNITED STATES
BANKRUPTCY COURT
FOR THE DISTRICT OF ARIZONA

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8 Attorneys for Movant Atlas Assurance Company of America

9 UNITED STATES BANKRUPTCY COURT
10 DISTRICT OF ARIZONA

11 In re) Chapter 11
12 BCE WEST, L.P., et al.,) Case No. 98-12547
13 Debtors) through 98-12570 ECF CGC
14 EID #38-3196719) Jointly Administered
15)
16 ATLAS ASSURANCE COMPANY OF) SUPREME COURT OF THE STATE OF
AMERICA, as subrogee of New York) NEW YORK, COUNTY OF QUEENS
17 Health Plan, Inc.,)
18 Movant,) Index No. 14021
19 vs.) NOTICE OF FILING MOTION TO
20 BOSTON CHICKEN, INC. D/B/A	LIFT AUTOMATIC STAY
BOSTON MARKET,)
21 Respondent.)
22)

23 **NOTICE IS HEREBY GIVEN** that the above-referenced Movant has filed on this day a motion
24 to lift automatic stay, the details of which are as follows:

25 To allow Movant, Atlas Assurance Company of America, and the other plaintiffs in the below
26 captioned action to resolve the issue of liability for their property damage claims against the Respondent,
27 said claims now pending before the Supreme Court of the State of New York, in Queens County, in a
28 consolidated action bearing Index No. 98-14021, and to allow Atlas and the following subrogated

1 insurers, to proceed to settlement or judgment, upon the condition that any recovery against Boston
2 Chicken, Inc. or BC of New York is limited to the proceeds of liability insurance held by or providing
3 coverage to the Debtors.

4 National Surety Corp., as subrogee of Boston Chicken, Inc.
Index No. 96-181311

5 Utica First Insurance Company, as subrogee of 7521 Restaurant, Inc.
6 Index No. 97-028366

7 Hartford Insurance Company, as subrogee of Jackson Heights Center Co
Index No. 98-14021

8 Albany Insurance Company, as subrogee of New York Health Plan
9 Index No. 2529098


10 **FURTHER NOTICE IS GIVEN** that, pursuant to Local Bankruptcy Rule 4001, written
11 objection must be filed with the Court and a copy served upon Movant's attorney whose name and
12 address is:

13 William J. Downey, Esq.
14 Elan S. Mizrahi, Esq.
15 William J. Downey, P.C.
3636 North Central, Suite 900
Phoenix, Arizona 85012

16 **If no written objection is filed with the Court and a copy served upon the Movant WITHIN**
17 **15 DAYS OF SERVICE OF THE MOTION**, the Motion of Atlas Assurance Company of America
18 to Lift Automatic Stay may be granted without further hearing.

19
20 DATED this 17th day of September, 1999.

21 WILLIAM J. DOWNEY, P.C.

22
23 By: 
24 William J. Downey,
25 Counsel for Movant Atlas Assurance
26 Company of America
27
28 \\\

1 ORIGINAL AND ONE COPY FILED
2 and copies mailed this ~~FILE~~ day of
September, 1999, to:

3 DEBTOR:

4 Boston Chicken, Inc.
5 Attention: Michael Daigle
6 14123 Denver West Parkway
Golden, CO 80401-4086

7 ATTORNEYS FOR DEBTOR:

8 H. Rey Stroube, III
9 Akin, Gump, Strauss, Hauer & Feld, L.L.P.
711 Louisiana, Suite 1900
Houston, TX 77002

10 and

11 Randolph J. Haines
12 Lewis and Roca, L.L.P.
40 North Central Avenue
Phoenix, AZ 85004-4429

13 U.S. TRUSTEE:

14 United States Trustee
15 2929 N. Central Avenue, Suite 700
16 P.O. Box 36170
Phoenix, AZ 85067-6170

17 ATTORNEYS FOR OFFICIAL UNSECURED CREDITORS COMMITTEE:

18 Evan D. Flaschen
19 Richard Casher
20 Hebb & Gitlin
One State Street
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21 and

22 Donald Gaffney
23 Snell & Wilmer
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Phoenix, AZ 85004

24 OFFICIAL UNSECURED CREDITORS COMMITTEE:

25 Frank Gippo, Vice President
26 Chas Manhattan Bank, as Indenture Trustee
and Successor Indenture Trustee
27 450 West 33rd Street, 15th Floor
New York, NY 10001

28

1 Thomas H. Day, Vice President
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2 One Financial Center
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4 Neil Subin
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5 Boca Raton, FL 33432
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7 Thomas M. Barnhart, II
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13 Brian K. Matthews, President
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1834 Longwood Dr.
Forked River, NJ 08731
14
15 Metin Caner
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Indenture Trustee
16 140 Broadway
New York, NY 10005-1180
17
18 Jeffrey L. Doppelt, Individually
Merrill Lynch
200 Middle Neck Road
19 Great Neck, NY 11021
20
21 Sandra W. Lavigna
Securities and Exchange Commission
5670 Wilshire Boulevard, Suite 1100
Los Angeles, CA 90036
22
23 OTHER INTERESTED PARTIES
Litigation in Kings County and Queens County, New York:
24
25 Gwertzman, Leftkowitz, Greenwald & Burman
39 Broadway, 18th Floor
New York, NY 10006
26 Attorneys for Plaintiffs Utica First Insurance Company
as Subrogee of 75-21 Restaurant, d/b/a China Chef
27
28 Ahmuty, Demers & McManus
200 I.U. Willets Road
Albertson, NY 11507

1 Attorneys for Defendants
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and Central Management Corp.
3
4 Devitt, Spellman, Barrett,
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5 Smithtown, NY 11787
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11 New York, NY 10371
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and N.Y. Automatic Sprinkler Services
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a/s/o Boston Chicken, Inc.
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23 Kew Gardens, NY 11415
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26
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Gartner, Bloom & Greiper
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28 New York, NY 10017

1 Attorneys for Plaintiffs Atlas Assurance Company of America
a/s/o New York Health Plan
2 [Robert A. Stutman, P.C., of counsel]

3 Lorch Construction Company, Inc.
19 Gibbs Road
4 Amityville, NY 11701

5 Advance Plumbing, Inc. aka MAC Properties, Inc.
4 Park Place
6 Glen Cove, NY 11701

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